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HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (L) No. 2360 of 2007

Petitioner	:	Gopal Krishan Paliwal S/o Shri Pilalal Ji Paliwal, Age about 50 years R/o Paliwal Lodge, Bus Stand Jalara Patan, Distt. Jhalabad (Rajsthan)
	Versus	
Respondents	:	1. C.G. Infrastructure Dev. Corp. Through- Divisional Manager (Transport Section) Bilaspur (C.G.) 2. C.G. Industrial Court Through- Member Judge Raipur (C.G.) 3. Presiding Officer, Labour Court, Bilaspur (C.G.)

Writ Petition under Articles 226/227 of the Constitution of India

Single Bench: Hon'ble Mr. **Justice Satish K. Agnihotri.**

Present : Mr. S.P. Kale, Advocate for the petitioner.

O R D E R

(Passed on 17th Day of April, 2007)

1. By this petition, the petitioner challenges the legality and validity of the order dated 30.6.2006 (Annexure P-13) passed by the Labour Court, Bilaspur in Case No. 48/CGIR/2004 and order dated 20.12.2006 (Annexure P-14) passed by the State Industrial Court, Chhattisgarh, Raipur in Civil Appeal No. 54/CGIR Act/A-II/2006, confirming the order passed by the Labour Court whereunder the application of the petitioner was rejected.

2. The indisputable facts in nutshell are that the petitioner filed an application under Section 31(3) read with Section 61 of Chhattisgarh Industrial Relation Act, 1960 challenging the order dated 16.5.1995 passed

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passed by the respondent No. 1. The petitioner was appointed as Conductor by the erstwhile Madhya Pradesh State Road Transport Corporation on 14.10.1976. The petitioner was classified as booking agent vide order dated 3.2.1993. The petitioner in the meantime was transferred from Byarra Depot. Rajgarh (M.P.) to Bilaspur (C.G.) Division. The petitioner objected to the said transfer order. The charge sheet was issued. The petitioner did not submit any response/reply to the charge sheet. Accordingly, the enquiry was proceeded ex-parte. The Labour Court after framing the issue and affording the opportunity of hearing to the petitioner/employee and the employer came to the conclusion that the enquiry was ex-parte, as such invalid. It was the responsibility of the respondent No. 1 to prove the charge against the petitioner/employee.

3. The Labour Court after considering all the facts and examining documents came to the conclusion that the petitioner was guilty of serious mis-conduct and consequently, it was held that the termination order was just and proper. The application of the petitioner was accordingly dismissed vide order dated 30.6.2006 (Annexure P-13) passed by the Presiding Officer, Labour Court, Bilaspur.

4. Being aggrieved and dis-satisfied with the order, the petitioner moved Civil Appeal No. 54/CGIRAct/A-II/2006 before the State Industrial Court, Chhattisgarh, Raipur. The Industrial Court up-held the findings recorded by the Labour Court as under:-

> "5. ..... इस प्रकार कर्मचारी के कथन के आधार पर ही यह प्रमाणित है कि कर्मचारी ने जानबूझकर ट्रांसफर आर्डर में उल्लेखित स्थानांतरण स्थान पर डियूटी ज्वाइन नहीं की और वह सेवा से अनाधिकृत रूप से

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अनुपस्थित रहा है इस प्रकार एस.एस.ओ. 12(1)पी) के अंतर्गत गंभीर दुराचरण किया है ।"

"6. ..... निश्चित तौर पर कर्मचारी ने स्थानांतरित स्थान पर ट्रांसफर आर्डर के पालन में ज्वाइनिंग नहीं दी थी और सेवा से लगभग एक माह तक अनाधिकृत रूप से अनुपस्थित रहा था इसी आधार पर उसके विरूद्ध आरोप पत्र दिया जाकर विभागीय जांच संपादित करने के पश्चात् उसकी सेवायें समाप्त की गई थी । उद्योग में अनुशासन का होना अत्यंत आवश्यक है यदि कोई भी कर्मचारी जानबूझकर बिना सूचना के कार्यस्थल से अनुपस्थित रहता है तो नियोक्ता को यह अधिकार प्राप्त होता है कि कर्मचारी के विरूद्ध विभागीय कार्यवाही करते हुये उसके द्वारा किये गये गंभीर दुराचरण के लिये उसकी सेवायें समाप्त कर सकता है ।"

5. I have heard learned counsel appearing for the petitioner and perused the documents and judgments and orders passed by the Courts below. It is evident that the findings recorded by the Labour Court and confirmed by the Industrial Court, was passed on sufficient evidences and it was proved on the basis of evidence that the petitioner/employee committed serious mis-conduct by not complying with the transfer order and remaining absent for about one month. Thus, the consequential order of termination was properly held just and proper.

6. It is well settled principle of law that this Court, while exercising its jurisdiction under Article 226 of the Constitution of India, has limited jurisdiction to the extent of reviewing the case, in the event, there is perversity, irregularity in the process of decision, not in the decision itself.

7. In view of the foregoing, the petition deserves to be and is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Subhash